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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/751,070

01/02/2004

Lynette Damir

SWAD-1-1002

1245

25315 7590 07/12/2007
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EXAMINER

HALE, GLORIA M

ART UNIT

PAPER NUMBER

3765

MAIL DATE

DELIVERY MODE

07/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/751,070

Applicant(s)

DAMIR ET AL.

Examiner

Gloria Hale

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39, 41 and 44-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39, 41 and 44-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 39, 41 and 44-51 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 39 is incomplete in that the blanket material or surface sheet where the illustrations are placed have not been claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 39, 41 and 44-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Isola et al (US 3,613,133).

Isola et al discloses a blanket 16 with illustrations thereon. Isola et al also discloses that any known illustration desired can be placed on the blanket including scenes, articles and persons etc. (See Isola et al, col. 11, lines 8-48 and figure 16; and col. 5, line 41 – col. 6, line 16). However, Isola et al does not specifically disclose the fold illustrations on the blanket as specifically claimed. Accordingly it would have been obvious to one having ordinary skill in the art to place any desired indicia on the blanket as desired for

aesthetic purposes or for directions such as that disclosed in Isola et al. Isola et al also discloses the placement of a person on a blanket. The illustration is painted on the blanket and is reproduced in any known manner such as those claimed that are well known indicia processes. (See col. 11, lines 35-49). The illustrated method of swaddling a baby is also well known and placing the illustrations to instruct such swaddling on a blanket in place of Isola et al's placement of a person is just a change in printed matter and would be an obvious substitution as desired that would only be limited by the imagination of the user. The only difference of the claimed invention over Isola et al's invention is the printed matter and that is not a patentable distinction. Since the only difference is the content of the information set forth by the indicia, then this difference is not set forth as patentable distinction. IT has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. Therefore when the prior art describes all of the claimed structural and functional relationships (in this case the function of the printed matter on the blanket that shows the placement of the user and wherein the blanket surfaces support the indicia, which is the same function as Isola et al) between the descriptive material and the substrate, but the prior art describes a different descriptive material than the claim, then the descriptive material is non-functional and will not be given patentable weight. (See *In re Ngal*, 367 F.3d.1336,70 USPQ2d 1862 (Fed. Cir. 2004)). Furthermore, the fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an end user with a specific type of information document or form does not alter the

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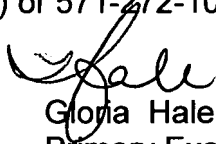
functional relationship. Mere support by the substrate for the printed matter is not eh kind of functional relationship necessary for patentability.

Therefore the fold illustrations printed on a blanket do not provide patentable subject matter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria Hale whose telephone number is 571-272-4984. The examiner can normally be reached on Tues.-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Gloria Hale
Primary Examiner
Art Unit 3765
